

# **EXHIBIT 25**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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MARYLAND SHALL ISSUE, INC., :  
et al., :  
: Case No:  
Plaintiffs : 16-cv-3311-MJG  
:   
-vs- : Pages 1 - 169  
:   
LAWRENCE HOGAN, in his :  
capacity of Governor of :  
Maryland, et al., :  
:   
Defendants :  
-----X

Deposition of Andy R. Johnson  
Baltimore, Maryland  
Wednesday, April 11, 2018

Reported by: Kathleen M. Vaglica, RPR, RMR  
Job No: 393199

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1 conversations with Detective Sergeant Lopez.

2 Q. To your knowledge, has Maryland State  
3 Police ever had access to that information?

4 A. That I don't know.

5 Q. Item 23, the HQL's effect on handgun sales  
6 in Maryland from 2013 through 2017. You have a  
7 note, "No response on effect." What does that mean?

8 A. It just means that I can't, I don't feel  
9 that I can testify on the effect on the sales in  
10 Maryland.

11 Q. Do you have any information on the effect  
12 of handgun sales in Maryland from the HQL?

13 A. Only that today we're back to near record  
14 numbers.

15 Q. What's the basis of that statement?

16 A. Just the information I reviewed here  
17 today.

18 Q. Show me exactly what you're pointing to.  
19 Is that the -- well, just show me what you're  
20 referring to.

21 A. Sure. So I have information on the MAFSS  
22 yearly count of firearm transfer by gun type.

1 MR. SCOTT: Has it been previously marked?

2 THE WITNESS: I believe it has, but I'm  
3 not sure.

4 MR. SWEENEY: We'll get a copy marked.

5 (Exhibit No. 92, MAFSS Yearly Count of  
6 Firearm Transfer by Gun Type, was marked for  
7 identification and retained by Mr. Scott.)

8 MR. SWEENEY: Is this Bates number 3207?

9 THE WITNESS: Yes, sir.

10 MR. SWEENEY: Let's go ahead and mark that  
11 as the next exhibit number. We may have a duplicate  
12 in the record.

13 MR. SCOTT: That's all right. No worries.

14 BY MR. SWEENEY:

15 Q. We've marked as Exhibit 92 the document  
16 with Bates stamp 3207 on it, and tell me what  
17 specifically you're referring to in this document to  
18 support the statement you just made.

19 A. Just the transfer count.

20 Q. All right. And it's your understanding --  
21 and are you looking at the transfer count column?  
22 Is that what you're referring to, or are you looking

1 at the handgun transfer column?

2 A. The handgun transfer column.

3 Q. All right. And when you're saying near  
4 record, you're comparing 52,101 handgun transfers  
5 depicted here in 2017 with prior years?

6 A. Yes, sir.

7 Q. 2013 had 90,090, almost twice as many. So  
8 you're not really near that record, are you, sir?

9 A. Could you repeat the question?

10 Q. Sure. 2013 had over 90,000 transfers, so  
11 the 52,000 in 2017 isn't really near that record  
12 year, is it?

13 MR. SCOTT: Objection. Go ahead.

14 THE WITNESS: I would say that's a record  
15 year. And the next record year would be, looking at  
16 this document, 47,348 in 2012, and 52,101 from 2017  
17 is above that so that was my reference.

18 BY MR. SWEENEY:

19 Q. All right. And the total transfers  
20 depicted here in 2014 and 2015 of 28,799 and 34,751  
21 are significantly below those years; correct?

22 MR. SCOTT: Objection.

1 THE WITNESS: Below the years that are  
2 listed here from 2000 to 2017, no, sir.

3 BY MR. SWEENEY:

4 Q. All right. So 28,000 and 34,000 is not  
5 significantly below 52,000?

6 A. It is below 52,000. I was using the range  
7 that we have here so that's what I was referring to.

8 Q. Let me try to understand. What do you  
9 mean by a range?

10 A. We have listed here on this document 2000  
11 to 2017, the years 2000 through 2017.

12 Q. Okay.

13 A. The other document that I've used in the  
14 past is the weekly report, which I believe we've  
15 also provided to you for 2018.

16 Q. We marked that as Exhibit 80 earlier  
17 today. Can you identify where on that document  
18 you're referring?

19 A. So, again, using the totals for -- these  
20 are applications received from 2015 through 2018 and  
21 a weekly average, as well as a yearly total, for  
22 2015 to 2017 and as far back as 2014, I believe, on

1 some of the older weekly reports. And just that the  
2 weekly average from 2015 to 2018 has gone up  
3 significantly as well.

4 Q. Now, what period of time is used to  
5 calculate the weekly average that appears there, the  
6 data that you're looking at?

7 A. From the start of the calendar year,  
8 January 1, through the current date of that weekly  
9 report averaged out over the number of years.

10 Q. So the last report for the year would be  
11 cumulative for the entire year and provide an  
12 average by week based on the total for the year?

13 A. Yes, sir.

14 Q. Are there any other documents that you're  
15 basing your opinion on?

16 MR. SCOTT: Objection to form.

17 MR. SWEENEY: If I revise it and  
18 substitute statement, will you remove your  
19 objection?

20 MR. SCOTT: If you restate the question.

21 MR. SWEENEY: Sure.

22 BY MR. SWEENEY:

1 administrative denial log as well or ledger I should  
2 say. I think we're getting hung up on the log  
3 versus ledger, so I want to make sure I have the  
4 other information in front of me.

5 Q. I don't know if I have the disapproval  
6 ledger with me. What I do have is the -- we can  
7 talk about what this is. Pull it out.

8 MR. SWEENEY: Let's mark that as 98.

9 (Exhibit No. 98, Administrative Denial  
10 Ledger, was marked for identification and retained  
11 by Mr. Scott.)

12 BY MR. SWEENEY:

13 Q. Let me show you what we've marked as 98,  
14 which is another log-like spreadsheet that we took  
15 out of your document production. What is it that  
16 we're looking at that's identified as Bates  
17 number 1218 through 1227?

18 A. I believe that this is the administrative  
19 denial ledger. And this ledger is -- I know it's  
20 hard to say without the redacted information, but I  
21 believe it is the information that is given back to,  
22 when the section receives a Rap Back or an ADR



1 report, the person is put on this log or ledger as a  
2 person who's come back on that report. That's what  
3 I recognize this to be.

4 Q. We had been calling this the revocation  
5 log.

6 A. Correct.

7 Q. Does that make -- is that what you would  
8 call it?

9 A. Yes, sir.

10 Q. And it is a different spreadsheet and  
11 stream of data than the administrative log that we  
12 marked as Exhibit 97; correct?

13 A. Yes, sir.

14 Q. And let me understand what's a Rap Back?

15 A. I believe it's a record of arrest and  
16 prosecution, if I'm not mistaken, or processing.  
17 I'm sorry. Not prosecution.

18 Q. What does that mean?

19 A. That's a term that they use when they are  
20 getting this -- it's called an ADR report, Arrest  
21 Disposition Report, sent back to the unit based on  
22 someone's fingerprints who has now been charged with

1 a crime or arrested.

2 Q. And what does the HQL unit do with that  
3 information? In other words, an HQL holder has been  
4 fingerprinted in connection with an arrest. That  
5 information comes to the HQL unit. It's reflected  
6 in this log. What then happens?

7 A. If -- you can see there are some here that  
8 have been revoked, so if the charge is prohibitor,  
9 they would follow the disposition of the case; and  
10 once the case had a disposition, if it is, in fact,  
11 a disqualifier, they would then revoke the person's  
12 HQL. Those are highlighted in the blue on the color  
13 copy we have here.

14 Q. Do you know what the significance, if any,  
15 of the yellow highlighting is?

16 A. I believe those are cases that may still  
17 be under disposition. Actually, I don't know. I  
18 believe they were still -- they have not yet  
19 received disposition, I believe. That's my  
20 understanding of what they are.

21 So, if you look at the majority of the  
22 charges in white, they are either for the most part

1 not disqualifiers, nolle prossed, those kinds of  
2 things, so if you look at the highlighted numbers,  
3 they are from charges that have yet to have a  
4 disposition.

5 Q. All right. You mentioned that this  
6 process is triggered at least in terms of the  
7 reporting to Maryland State Police by fingerprints  
8 being taken incident to a criminal arrest and  
9 matched to the fingerprints on file for an HQL  
10 applicant; am I correct?

11 A. Matched to the SID number from the  
12 applicant. State ID number, yes, sir.

13 Q. And is there any other means of reporting  
14 of an arrest of an HQL holder other than a match of  
15 the fingerprint identification?

16 A. Is there any means to what? I'm sorry.

17 Q. To report to Maryland State Police that an  
18 HQL holder has been arrested, a potentially  
19 disqualifying event, other than the fingerprinting?

20 A. So that's a twofold question, and I'll  
21 answer it's still by fingerprinting, but the only  
22 other event that I know of would be, if the person

1 has a handgun permit, the code for the fingerprints  
2 is related to handgun permit. They would be  
3 notified. They would then notify HQL.

4 Q. All right. So, before the HQL  
5 fingerprinting requirement, if the owner of a  
6 registered firearm in Maryland was arrested for a  
7 potentially disqualifying crime, was there any  
8 report of that arrest that went to anyone at  
9 Maryland State Police?

10 A. Not that I recall.

11 Q. And other than reports that are triggered  
12 by fingerprint matches, would the HQL fingerprint  
13 data that's kept on file, there's no reporting to  
14 Maryland State Police of the arrest of any HQL  
15 holder now; correct?

16 A. That is my understanding, yes, sir.

17 Q. Going back to Exhibit 97, if you would for  
18 a moment, and let's just look at the first item and  
19 see -- it's on Bates stamp page 1214 and see if we  
20 can understand it.

21 There appears to be a column that's been  
22 redacted in black on the far left of the page. Are

1 the administrative log when the application in  
2 question was submitted?

3 A. I don't believe so.

4 Q. Are the dates in which an application that  
5 has been administratively disapproved is overturned  
6 all occurring within 30 days of the submission of  
7 that application to MSP?

8 A. I'm going to have to have you repeat that.  
9 I'm sorry.

10 MR. SWEENEY: Please read that back,  
11 Kathy.

12 (The reporter read back as requested.)

13 THE WITNESS: Once the, the reason for  
14 administrative denial has been corrected, it then  
15 becomes a properly completed application. Within  
16 30 days of that happening, they are being  
17 overturned, yes, sir.

18 BY MR. SWEENEY:

19 Q. And I'm trying to find out what the time  
20 period is between the submission of the application  
21 and the overturning of the administrative  
22 disapproval. Is that within 30 days?

1           A.    The time that it's denied and the  
2    administrative approval? In most cases it would be.  
3    However, if it's not a properly completed  
4    application, we can only make a decision on it once  
5    we have a properly completed application.

6           Q.    What I'm trying to find out is how long  
7    does that take?

8           A.    It varies.

9           Q.    And does it sometimes involve more than  
10   30 days from the submission of the application?

11          A.    From the submission of a not properly  
12   completed application to the time of overturn for a  
13   denial, yes.

14          Q.    All right. More than 30 days?

15          A.    Yes, sir.

16          Q.    And that's happened more than once;  
17   correct?

18          A.    I would assume so.

19          Q.    All right. And do you know how often it's  
20   happened?

21          A.    I'm just told that it's, most of those  
22   cases are still generally, once we have the reason

1 for administrative denial corrected, that they are  
2 all within 30 days. However, most of them are still  
3 corrected and approved within 30 days from the  
4 initial application date.

5 Q. But some are not, and we don't know how  
6 many?

7 A. Yes, sir, correct.

8 Q. You don't keep the records of how long it  
9 takes or how many don't do it within 30 days;  
10 correct?

11 A. No, sir.

12 Q. All right. On the same page we've been  
13 looking at, 12/14, about three quarters of the way  
14 down the page one of the reasons given is ARN  
15 number/hunting license. Can you tell us what that  
16 means?

17 A. I do not know.

18 Q. All right. Is the hunting license  
19 accepted instead of the handgun safety training  
20 under the HQL?

21 A. Instead of the hunter's safety?

22 Q. Instead of the handgun training. Is a

1 (Whereupon, a short recess was taken from  
2 2:59 to 3:08 p.m.)

3 MR. SWEENEY: Let's mark this as number  
4 99.

5 (Exhibit No. 99, MAFSS Spreadsheet, was  
6 marked for identification and retained by Mr.  
7 Scott.)

8 BY MR. SWEENEY:

9 Q. Captain Johnson, while we were off the  
10 record, I marked as Exhibit 99 another spreadsheet  
11 from MAFSS that looks very much like the spreadsheet  
12 we marked and talked about as Number 92 with the  
13 exception that the numbers are largely all  
14 different, and it is Bates 3206. Are you familiar  
15 with that document, as well as with Document 92, and  
16 can you explain the differences?

17 A. I am, and the differences in the transfer  
18 count are significantly higher on the Exhibit 99  
19 than they are Exhibit 92.

20 Q. And do you know why that is?

21 A. When we saw the numbers that MAFSS  
22 provided on the original Exhibit 99, we actually set



1 a meeting with the information technology people at  
2 MAFSS to try to find out why the data was the way it  
3 is, and the only thing they could tell us is they  
4 believe someone had written the script wrong to pull  
5 the data.

6 And once we explained to them what we were  
7 looking for and that those numbers we didn't feel  
8 were accurate, they provided the second copy of  
9 Exhibit 92 to us as a corrected copy.

10 Q. What, if anything, did you do to satisfy  
11 yourself that Exhibit 92 as corrected is correct?

12 A. Those numbers appeared more accurate,  
13 consistent with some of the information from our  
14 weekly report than what was originally presented on  
15 Exhibit 99 with the exception of the years 2014,  
16 '15, '16.

17 Most recently in viewing the document, I  
18 questioned why in those years under category S as a  
19 single shot we had a significant increase over prior  
20 years at which time I was advised that the  
21 application for the 77R during those years had a  
22 misprint on the back of the form which was

1 categorizing semiautomatics with a category Code S  
2 instead of A.

3 Therefore, when people were putting the  
4 information in, the numbers for that year for single  
5 shot were significantly higher than years past.

6 Q. And what years did that form misprint  
7 occur?

8 A. I believe it was in 2014.

9 Q. And who advised you of that?

10 A. Sergeant Pickle.

11 Q. And what was the basis of his information?

12 A. He was in the registration section at the  
13 time.

14 Q. Do you know how long the single shot  
15 category has been in the MAFSS system?

16 A. I do not. It appears since 2000.

17 Q. Is there anything else you did to satisfy  
18 yourself that the information on Exhibit 92 is  
19 accurate?

20 A. No, sir.

21 (Discussion held off the record.)

22 MR. SWEENEY: Let's mark this.

1 report, as you understood it, indicate that Maryland  
2 State Police had not followed the requirements of  
3 the Maryland HQL law in requiring the paper  
4 submission of HQL applications?

5 A. That was not discussed.

6 Q. Were you advised that the audit found that  
7 Maryland State Police did not adequately ensure that  
8 the handgun registration data in MAFSS was accurate?

9 A. The handgun registration data in MAFSS?

10 Q. Mm-hmm.

11 A. I was advised that there were clerical  
12 errors in the data, yes, sir.

13 Q. Is it your understanding that it's the  
14 responsibility of the Licensing Division under your  
15 command to ensure that the handgun registration data  
16 in MAFSS is accurate?

17 A. Yes, sir.

18 Q. All right. And what does your Licensing  
19 Division do to ensure itself that the handgun  
20 registration data in MAFSS is accurate?

21 A. Currently?

22 Q. Yes.

1           A.     So the information currently that's put  
2     into the portal, which went live January 1 of 2017,  
3     has no longer required the -- what was required  
4     prior was 100 percent quality assurance in each  
5     application as the data was being entered into, at  
6     that time, our Isabel system and then ultimately  
7     transposed into the MAFSS database.

8                     When that information was put into the  
9     MAFSS database, there was always at least more than  
10    one person looking at that information because it  
11    was coming in on an electronic, a fax copy, and then  
12    from there, once the data was entered and the  
13    application came back to the Licensing Division,  
14    what we call final date where that firearm was  
15    considered transferred, that information was then  
16    reviewed again upon entry into MAFSS, the firearm  
17    data at this point.

18                    Of those approximately 3 to 5 percent of  
19    those applications are pulled for random samples,  
20    and there's quality control done on those random  
21    samplings. Currently, with the portal the  
22    information is already in the digital format. It's

1 taken right out of the digital application, the  
2 electronic application, and placed into MAFSS and  
3 the same quality control is conducted on those  
4 random sampling of applications.

5 Q. And the process you described is effective  
6 as of January 1, 2017, when the new 77R electronic  
7 portal became active?

8 A. From the standpoint of the quality control  
9 and directly from the electronic application, yes,  
10 sir. Prior to that was the 100 percent quality  
11 assurance. When that application came in, it was a  
12 manual data entry from the fax copy into Isabel and  
13 then ultimately into MAFSS.

14 Q. Now, the audit report that we have here on  
15 2015 found that there were some 4,000 out of 27,500  
16 handgun records that were reviewed contained errors.  
17 What, if anything, did Maryland State Police do  
18 after receiving this audit report to look at all the  
19 MAFSS firearms registration data to ensure it was  
20 accurate?

21 A. I don't know what was done prior to me as  
22 far as this audit that was completed in, I believe,